

*[Parties and Counsel Listed on Signature Pages]*

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT  
ADDICTION/PERSONAL INJURY PRODUCTS  
LIABILITY LITIGATION

This Document Relates To:

## ALL ACTIONS

MDL No. 3047

Case No. 4:22-md-03047-YGR (PHK)

# JOINT STATUS REPORT ON DISCOVERY FOR MAY 16, 2024 DISCOVERY MANAGEMENT CONFERENCE

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

Pursuant to Discovery Management Order No. 2 (ECF 606), the Personal Injury (“PI”) and School District and Local Government Entity (“SD”) Plaintiffs, State Attorneys General (“State AGs”), and Defendants submit this agenda and joint statement in advance of the May 16, 2024, Discovery Management Conference (“DMC”).

## I. Status of Discovery and Parties' Progress in Meeting Discovery Deadlines

#### **A. Plaintiffs' Requests for Production of Documents (RFPs) Served on Defendants**

## 1. RFPs Served by PI/SD Plaintiffs and State AGs

The PI/SD Plaintiffs have served 310 RFPs on Meta. On March 22, 2024, the State AGs served Meta with their first set of 39 RFPs.

The PI/SD Plaintiffs have served 318 RFPs on TikTok.

1 The PI/SD Plaintiffs have served 157 RFPs on Snap

2 The PI/SD Plaintiffs have served 148 RFPs on YouTube.

3 **2. Defendants Responses and Objections (R&Os)**

4 Meta has served R&Os to Sets 1-10 (276 RFPs) of the PI/SD Plaintiffs' RFPs, and R&Os to Set  
5 1 (39 RFPs) of the State AGs' RFPs. Meta's R&Os to the PI/SD Plaintiffs' Set 11 (16 RFPs) are due on  
6 May 9, 2024. Meta's R&Os to the PI/SD Plaintiffs' Set 12 (18 RFPs) are due on June 3, 2024.

7 TikTok has served R&Os to all of the PI/SD Plaintiffs' RFPs with the exception of Set 10, which  
8 is due May 20. TikTok's R&Os to the PI/SD Plaintiffs' Set 14 (18 RFPs) are due on June 2, 2024.

9 Snap has served R&Os to all of the PI/SD Plaintiffs' RFPs with the exception of Set 9, which is  
10 due June 6, 2024.

11 YouTube has served R&Os to all of the PI/SD Plaintiffs' RFPs with the exception of Set 9,  
12 which is due on June 5, 2024.

13 **3. Status of Document Productions**

14 All Defendants have been producing documents in response to Plaintiffs' RFPs and will continue  
15 to make rolling productions.

16 In addition to the approximately 49,000 documents it produced last year, Meta has produced 397  
17 documents in response to the PI/SD Plaintiffs' RFPs and/or certain topics in the PI/SD Plaintiffs'  
18 30(b)(6) deposition notice (in proposed lieu of testimony). Meta intends to make a significant  
19 production of custodial documents to Plaintiffs on or before May 21, 2024. Meta has not yet produced  
20 any documents in response to the State AGs' RFPs (Meta served its R&Os on April 22).

21 In addition to the roughly 17,000 documents it produced last year, TikTok has produced 1,011  
22 documents in response to the PI/SD Plaintiffs' RFPs.

23 In addition to the 851 documents it produced in 2022 and 2023, Snap has produced 44  
24 documents in response to a Rule 30(b)(6) deposition notice and 33 documents in response to the PI/SD  
25 Plaintiffs' RFPs.

26 YouTube has produced 15,407 documents in response to the PI/SD Plaintiffs' RFPs.

1                   **4. Status of Conferrals on Custodians and Search Terms**

2                   The Parties have been meeting and conferring cooperatively on custodians and search terms in an  
 3 attempt to resolve their disputes without requiring the Court's assistance. On April 25, the Court set a  
 4 deadline of May 1 for the Parties to finalize their respective discussions regarding document custodians  
 5 for ESI and discovery purposes, with the exception of Snap, for which the Court set a May 8 deadline.  
 6 *See* Discovery Management Order No. 5 ("DMO 5") at 5-6.

7                   The Parties have been negotiating search terms in response to Plaintiffs' already-served RFPs.  
 8 Plaintiffs respectfully request the Court impose a May 31, 2024, deadline by which the Parties shall  
 9 finalize the ongoing search term negotiations or submit disputes regarding the terms should the Parties  
 10 not reach agreement. Defendants join Plaintiffs' request, and will promptly provide hit reports in  
 11 compliance with the ESI Protocol to facilitate meeting this deadline (Meta already did so, on May 9, and  
 12 Snap will do so on May 10).

13                  **Meta—Custodians.** Meta and the PI/SD and AG Plaintiffs ("Plaintiffs" for purposes of this  
 14 paragraph) have reached agreement on a list of 122 custodians. In addition, Meta and Plaintiffs have  
 15 agreed that Plaintiffs may add 5 more custodians of their choice by August 30, 2024 at 5 p.m. ET; and  
 16 Plaintiffs agree not to argue that Meta has not substantially completed its document production by the  
 17 September 20, 2024 deadline based on the timing of its custodial productions for those 5 additional  
 18 custodians. Beyond the custodians described above, Plaintiffs may seek to add a limited number of  
 19 additional custodians only upon a showing of good cause to the Court. For any such custodian that the  
 20 Court upon a showing of good cause allows to be added, Plaintiffs agree not to oppose a request by Meta  
 21 for an extension of time to complete the custodial production for such custodian, if such extension is  
 22 requested by Meta (without otherwise extending the December 20, 2024 deadline applicable to the close  
 23 of discovery).

24                  **Search Terms.** On April 5, 2024, Meta provided Plaintiffs with a search term proposal. The  
 25 Parties had a meet-and-confer to discuss Meta's proposed search terms on April 8. The PI/SD Plaintiffs  
 26 provided their search term counter-proposal on April 17. The Parties had another meet-and-confer to  
 27 discuss the counter-proposal and the relevant timeframe on May 1. On May 9, Meta sent Plaintiffs a

1 written response to their search terms and relevant timeframe proposal, along with a hit report for  
 2 Plaintiffs' search terms. On May 10, the Parties met and conferred again on search terms and the  
 3 relevant timeframe and intend to hold a final H(2) meet-and-confer on these issues by May 16.  
 4

5 **TikTok—Custodians.** TikTok provided Plaintiffs with a list of 19 custodians, along with  
 6 proposed search terms on April 1. On April 3, Plaintiffs provided TikTok with a list of 43 additional  
 7 proposed custodians. On April 23, TikTok agreed to add four individuals to its original list of 19  
 8 custodians. Plaintiffs and TikTok met and conferred about TikTok's and Plaintiffs' proposed custodians  
 9 on April 24, 25, 29, May 1, and May 3. The Parties also exchanged written correspondence during that  
 10 time. During the April 29 meet and confer, TikTok said it would be willing to add an additional two  
 11 custodians, including the current CEO of TikTok, Shou Chew, and the prior, long-serving Chief  
 12 Operating Officer of TikTok, V. Pappas. In addition, on April 24, TikTok produced a list of individuals  
 13 to whom it sent litigation hold notices. On April 29, Plaintiffs identified 36 additional proposed  
 14 custodians out of these recipients and one additional request of a custodian not on the litigation hold.  
 15 On May 1, May 2, and May 3, Plaintiffs withdrew three, three, and nineteen of their requested  
 16 custodians respectively—for a total of 25 retracted custodians. TikTok then agreed to add eight  
 17 additional custodians.

18 Consistent with the Court's directive to finalize their discussions, the parties have drafted joint  
 19 letter briefs that they are preparing to exchange but have continued to meet and confer to narrow their  
 20 dispute. The parties anticipate that any joint letter brief would be ready to file the week of May 13 but  
 21 remain hopeful that an agreement can be reached that narrows or resolves their dispute.

22 **Search Terms.** As to search terms, Plaintiffs and TikTok have agreed to 85 search terms  
 23 proposed by TikTok (with modifications by Plaintiffs) and 12 search terms proposed by Plaintiffs (with  
 24 modifications by TikTok). At TikTok's request, Plaintiffs have withdrawn their request for an  
 25 additional 35 terms. The Parties continue to meet and confer on the remaining 400 Plaintiff-proposed  
 26 search terms. At TikTok's request, Plaintiffs proposed further modifications to 91 of the 400 terms and  
 27 provided some explanation on the other 309 proposed terms, which the Parties met and conferred about

1 on May 9, 2024. TikTok is analyzing this additional information and anticipates providing Plaintiffs a  
2 formal response the week of May 12.

3 **Snap.** On April 8, Snap provided Plaintiffs with a “preliminary” list of 15 custodians and  
4 proposed search terms. On April 22, Plaintiffs provided Snap a proposed list of additional Snap  
5 custodians. On April 24, Plaintiffs provided Snap with a revised list of proposed search terms. The  
6 Parties met and conferred on April 25 regarding the lists of proposed custodians and on May 3 regarding  
7 the proposed search terms. By the Parties’ agreement, Snap served its litigation hold list on May 3.  
8 Plaintiffs are reviewing the litigation hold list and the Parties met and conferred on the proposed  
9 custodians on May 9, 2024. Pursuant to DMO No. 5, the parties were ordered to finalize discussions  
10 regarding document custodians by May 10, 2024. The parties are at an impasse, however, and will be  
11 submitting a joint letter brief to the Court to resolve the issue.

12 **YouTube.** On April 8, YouTube provided Plaintiffs with (1) a list of 20 custodians; (2)  
13 proposed search terms; and (3) a list of data sources that may contain potentially relevant information.  
14 Pursuant to the Court’s instruction, YouTube also provided, on April 24, a list of individuals it had  
15 placed on litigation holds in connection with this matter. On April 30, 2024, Plaintiffs proposed  
16 additional custodians. On May 1, 2024, Plaintiffs wrote to Magistrate Judge Kang requesting an  
17 additional week to finalize discussions. YouTube then proposed to add 22 additional custodians.  
18 Plaintiffs agreed to accept some of YouTube’s proposed custodians, and based on information provided  
19 by YouTube, dropped some of Plaintiffs’ proposed custodians. The Parties met and conferred on May 7,  
20 May 8, and May 10 to finalize discussions regarding custodians. As noted below, the Parties were  
21 unable to resolve all of their disputes and anticipate submitting a joint letter-brief next week.

22 With regard to search terms, Plaintiffs proposed additional terms on May 1. The Parties continue  
23 to meet and confer regarding search terms.

1                   **B. Discovery Requests Served by Meta on State AGs to Date**

2                   **1. RFPs Served by Meta on State AGs to Date**

3                   Meta served its first set of 45 RFPs on each of the 35 State AGs on February 27, 2024. Meta  
 4                   served its second set of RFPs and first set of interrogatories on each of the 35 State AGs on May 3,  
 5                   2024.

6                   **2. State AG's Requests and Objections**

7                   The State AGs served their collective responses and objections to Meta's first 45 RFPs on March  
 8                   28. The State AGs' responses to Meta's second set of RFPs and first set of interrogatories are due on  
 9                   June 3.

10                  **3. Status of Document Productions**

11                  The State AGs produced an initial tranche of 28 documents on April 29, 2024.

12                  **4. Status of Conferrals**

13                  The Parties met and conferred on April 16, 2024, regarding the State AGs' R&Os to Meta's first  
 14                  45 RFPs, as well as Meta's request that the State AGs identify custodians and search terms. At Meta's  
 15                  suggestion, the Parties discussed a subset of RFPs and agreed to exchange letters regarding the other  
 16                  RFPs. On April 30, 2024, the State AGs sent a letter memorializing their understanding of the  
 17                  discussion. On May 3, 2024, Meta sent the State AGs a letter, clarifying its position on certain issues  
 18                  (e.g., relevance of other social media platforms), and identifying specific deficiencies with the State  
 19                  AGs' R&Os. The State AGs have committed to responding in writing to Meta's letter and are actively  
 20                  coordinating among their coalition to gather the relevant information.

21                  **C. Discovery Requests Served by Defendants on Bellwether Plaintiffs to Date**

22                  On May 1, 2024, Defendants jointly served approximately 83 RFPs on each of the 10 selected  
 23                  SD Bellwether Cases, and approximately 77 RFPs on each of the 9 selected PI Bellwether Cases. On  
 24                  May 7, 2024, Defendants jointly served 3 interrogatories on each of the 10 selected SD Bellwether  
 25                  Cases.

1                   **D. Plaintiff Fact Sheets**

2                   **1. Personal Injury Plaintiff Fact Sheet (PFS)**

3                   As of April 30, 2024, there are 245 individual PI Plaintiffs in this MDL. 190 PI Plaintiffs served  
 4 PFSs by the April 1, 2024 deadline set forth in the PFS Implementation Order (ECF 596) and Case  
 5 Management Order 10 (ECF 604). Pursuant to the Court's April 10, 2024 Order (ECF 748), an  
 6 additional 45 PI Plaintiffs were to provide PFSs by May 8, 2024. Of those 45 Plaintiffs, 24 Plaintiffs  
 7 failed to submit a PFS. The large majority of the 24 PI Plaintiffs with outstanding PFSs have informed  
 8 Defendants of the status of their efforts to complete them, advising that in many instances their clients  
 9 have not been reachable. Defendants intend to move the Court to dismiss those 24 cases pursuant to  
 10 Rule 41(b).

11                  Defendants have submitted a number of PFS deficiency letters and Plaintiffs have responded to  
 12 the deficiency letters, including by raising the validity of such alleged deficiencies, and/or amended their  
 13 PFSs accordingly. Should the Parties reach an impasse on any of the individual deficiency letters, they  
 14 will raise them with this Court.

15                  **2. School District PFSs**

16                  As of May 9, 2024, there are 152 individual school district Plaintiffs in this MDL. One hundred  
 17 and one (101) SD Plaintiffs served PFSs by the respective deadline(s) set forth in the Implementation  
 18 Order (ECF 731). Since April 1, 2024, 31 school districts have served PFSs. Ten school districts failed  
 19 to serve a PFS by the May 8, 2024 deadline set forth in the Court's April 10, 2024 Order (ECF 748).  
 20 Ten SD Plaintiffs' PFSs are not yet due under the Court's orders.

21                  **E. Depositions**

22                  **1. Scheduling of and Conferrals Regarding Plaintiffs' 30(b)(6) Deposition Notices**

23                  The Parties have continued conferring regarding Plaintiffs' initial Rule 30(b)(6) deposition  
 24 notices and have scheduled a number of depositions. *See* March DMC Statement (ECF 750) at 5.

25                  **Meta.** Ahead of Meta's April 23 and May 1, 2024 presentation of witnesses, PI/SD Plaintiffs  
 26 and Meta agreed to postpone the depositions and reschedule them for dates in the near future in an effort  
 27

1 to resolve outstanding disputes. On April 24, 2024, SD/PI Plaintiffs and Meta submitted a joint letter-  
 2 brief addressing their disputes concerning the Rule 30(b)(6) Topics. ECF No. 786. The Court set a  
 3 hearing on the letter-brief for May 23, 2024 at 1:00 p.m. PT. The Parties are engaged in ongoing  
 4 conferrals, having met and conferred most recently on April 26 and 30, 2024.

5 **TikTok.** TikTok presented two Rule 30(b)(6) witnesses to testify on ESI/Preservation topics on  
 6 May 7 and 9, 2024. TikTok was also prepared to present a Rule 30(b)(6) witness on May 2 to testify on  
 7 Topics 3-7 related to issues under the broad umbrella of “Corporate Structure,” but on April 25, 2024,  
 8 one week before that deposition, Plaintiffs withdrew the deposition notice. When Plaintiffs withdrew  
 9 the notice on April 25, they indicated that they “will serve RFPs on these topics and/or identify RFPs  
 10 that they believe already call for documents on these topics, so that Plaintiffs may review such  
 11 documents before the renoticed deposition” but, to date, have failed to do so. [Note to Plaintiffs on  
 12 deleted text: This has never been raised until now and not a reason Plaintiffs provided for withdrawing  
 13 the corporate witness deposition.] The Parties agreed on certain topics (Topics 1, 2 and 30) for which  
 14 Plaintiffs will accept documents in lieu of deposition. Documents were produced for Topics 1 and 2,  
 15 and are due for Topic 30 on May 20. The Parties also agreed to conduct a deposition by written  
 16 question (reserving their rights) as to Topics 21-23 and 31.

17 **Snap.** Snap presented a 30(b)(6) witness on Corporate Structure Topics on May 1, 2024. The  
 18 PI/SD Plaintiffs and Snap have come to an agreement on the scope of ESI/Preservation Topics, and the  
 19 Parties are working on finalizing a deposition date in June.

20 **YouTube.** YouTube will present a 30(b)(6) witness on certain corporate structure topics on May  
 21 9, 2024, and the Parties are continuing to meet and confer to finalize the list of ESI topics on which  
 22 additional YouTube witnesses will testify.

23 For the avoidance of doubt, the foregoing 30(b)(6) depositions cover only an initial set of  
 24 preliminary topics; Plaintiffs have reserved the right to serve comprehensive 30(b)(6) notices later in the  
 25 litigation.

## 2. Plaintiffs' Notices of Anticipated Depositions of Meta

On March 22, 2024, Plaintiffs identified twelve current or former Meta employees they anticipate deposing. On March 28, 2024, Plaintiff identified an additional three anticipated depositions. On April 23, 2024, Plaintiffs amended their notice to include 22 additional anticipated deponents, for a total of 37 anticipated Meta deponents.

### a) Cross-Noticed Depositions

On April 15, 2024, Plaintiffs cross-noticed three depositions that were noticed by the Tennessee AG. On April 22, 2024, Plaintiffs cross-noticed 29 additional depositions that were noticed by the Tennessee AG for a total of 32 cross-noticed depositions. These 32 depositions are a subset of the 37 anticipated depositions mentioned above.

**b) 60-Day Production Deadline for Anticipated Deponents**

Meta continues to collect for review potentially relevant custodial materials associated with the now-36 witnesses identified by Plaintiffs as anticipated deponents, including Emails, Workplace Chats, and other custodial data sources. Meta anticipates that it can substantially complete production of responsive and non-privileged Emails and Workplace Chats within the 60-day production deadline for these 36 custodians. Particularly given the volume of anticipated deponents, however—which has more than doubled since last month—Meta will need more than 60 days to collect, process, review, and produce the responsive and non-privileged custodial material from other custodial data sources (*i.e.*, non-Email and Workplace Chat) for these custodians.

To address this issue, Meta made a proposal to Plaintiffs on April 19 for a phased production of custodial materials hitting on Meta’s search terms for the first fifteen anticipated deponents identified by Plaintiffs. *See* Deposition Protocol (ECF 742) Section II.N(1) (“The Parties shall cooperate in good faith to discuss extensions of time for such productions of custodial files.”). Consistent with the Court’s Order, in Phase I Meta would, within 60 days after Plaintiffs identified the deponent (May 21 or May 27, depending on the custodian), substantially complete production of responsive and non-privileged Emails and Workplace Chats while making rolling productions of as many responsive and non-privileged other custodial documents as possible. In Phase II, Meta would continue to make rolling

1 productions of as many responsive and non-privileged custodial documents as possible within the next  
 2 60 days; and would, no later than 30 days prior to the scheduled deposition of that deponent,  
 3 substantially complete its production of any remaining responsive and non-privileged custodial  
 4 documents, provided that none of the fifteen depositions is scheduled before August 21, 2024.<sup>1</sup>  
 5 Plaintiffs objected to this timeframe for substantial completion of productions and offered instead a 30-  
 6 day extension for the production of the full custodial file for the first 15 anticipated deponents (i.e., the  
 7 documents encompassed in Meta's proposed Phase II), to June 20 and June 25, respectively. Meta has  
 8 accepted this offer, without prejudice to its ability to request a further extension if it determines that  
 9 additional time is needed to complete custodial file productions for these first 15 anticipated deponents,  
 10 and will continue conferring with Plaintiffs on whether a broader adjustment of the 60-day custodial  
 11 production deadline is warranted, particularly given the significant volume of anticipated Meta  
 12 deponents.

13 **3. Plaintiffs' Notices of Anticipated Depositions to TikTok**

14 On April 3, Plaintiffs identified fourteen former and current TikTok employees whom they  
 15 anticipate deposing. TikTok has indicated its intent to object to several of Plaintiffs' early deponents,  
 16 including two whom TikTok asserts are high-level executives protected by the apex doctrine. The  
 17 Parties are meeting and conferring on the same.

18 **4. Plaintiffs' Notices of Anticipated Depositions to Snap**

19 On April 5, 2024, Plaintiffs identified seven current and former Snap employees whom they  
 20 anticipate deposing. Plaintiffs and Snap met and conferred on April 25 and May 8, 2024 regarding  
 21 Plaintiffs' list, and the Parties are continuing to discuss.

22  
 23  
 24  
 25 <sup>1</sup> In agreeing to produce responsive, non-privileged custodial and other files for these anticipated  
 26 deponents, Meta is not agreeing that any is the proper subject of a deposition and reserves the right to  
 27 object to such deposition and/or to limit the deposition to fewer than 12 hours, particularly for apex  
 custodians.

## 5. Plaintiffs' Notices of Anticipated Depositions to YouTube

On April 5, 2024, Plaintiffs identified five current or former YouTube employees whom they anticipate deposing. On April 15, 2024, YouTube responded, objecting to three of the anticipated deponents as “current, high-level executives of YouTube” protected by the apex doctrine, requesting the Plaintiffs withdraw their request as to a fourth, identified individual—YouTube’s co-founder who left the company fourteen years ago. The Parties met and conferred on April 30, 2024. Plaintiffs disagree with YouTube’s position and the Parties are continuing their discussions. YouTube is investigating whether it has relevant custodial documents from Plaintiffs’ fifth identified individual, who left the company four years ago.

## 6. Defendants' Notices of Anticipated Depositions to Plaintiffs

On April 30, 2024, Defendants identified 28 witnesses associated with the 9 PI Bellwether Plaintiffs and 60 witnesses associated with the SD Bellwether Plaintiffs whom they anticipate deposing.

## II. Ripe Discovery Disputes

## A. Disputes Between Plaintiffs and Meta

## 1. PI/SD Plaintiffs' 30(b)(6) Deposition Notice to Meta

The PI/SD Plaintiffs and Meta submitted a letter-brief to the Court on April 24, 2024 (ECF 786) regarding certain disputes with respect to the scope of topics in Plaintiffs' February 12, 2024 30(b)(6) deposition notice to Meta. The Court set a hearing on the letter-brief for May 23, 2024 at 1:00 p.m. PT. The parties subsequently agreed that the PI/SD Plaintiffs would withdraw Topic 31 without prejudice to seeking the information in the future; thus, this topic is no longer encompassed within the letter-briefing.

## 2. Whether Non-Party Questioning at a Cross-Noticed Deposition Counts Toward Plaintiffs MDL Hours Limit

The Parties have reached an impasse regarding whether the cumulative and per-deposition time limits set by the Court in Discovery Management Order 3 (ECF 667) apply to depositions originally noticed by non-parties and cross-noticed by the MDL Plaintiffs. Plaintiffs' position is that time spent by non-parties to the MDL and JCCP examining the witness do not count against these limits. Meta's position is that the first twelve hours of any cross-noticed deposition count against these limits.

1 regardless of the examiner. The Parties submitted a letter-brief to the Court on May 10, 2024 about this  
 2 issue. *See* ECF 831.

3 **B. Disputes Between PI/SD Plaintiffs and TikTok**

4 **1. Relevant Time Period**

5 The Parties submitted a joint letter-brief to the Court on May 1, 2024 (ECF 798) regarding the  
 6 definition of the term “Relevant Time Period” as used in Plaintiffs’ RFPs and TikTok’s R&Os. The  
 7 Court set a hearing for May 23, 2024 at 1:00 p.m. PT.

8 **2. Ex-U.S. Platforms**

9 The Parties submitted a joint letter-brief to the Court on May 1, 2024 (ECF 800) regarding the  
 10 scope of discovery of the TikTok platform outside the United States and non-TikTok services outside of  
 11 the United States. The Court set a hearing for May 23, 2024 at 1:00 p.m. PT.

12 **C. Disputes Between PI/SD Plaintiffs and Snap**

13 **1. Start Date of Relevant Time Frame**

14 Snap and the PI/SD Plaintiffs conducted a final meet-and-confer regarding the beginning date of  
 15 the definition of “Relevant Time Period” on May 3, 2024. The Parties submitted a joint letter-brief on  
 16 this issue on May 10, 2024. *See* ECF 830.

17 **D. Disputes Between PI/SD Plaintiffs and YouTube**

18 **1. YouTube’s Objection to the Relevant Time Period as to the RFPs<sup>2</sup>**

19 The Parties were unable to resolve their dispute over the Relevant Time Period for Plaintiffs’  
 20 document requests and submitted a letter-brief to the Court on May 8, 2024. *See* ECF 825. The Court  
 21 has set a hearing for May 23, 2024 at 1 p.m. PT.

22

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25 <sup>2</sup> Following a meet and confer on April 29, 2024, the Parties have agreed to time limits on the scope of  
 26 Rule 30(b)(6) witness testimony, subject to the understanding that if YouTube identifies relevant  
 27 information predating that time frame during its investigation, it will not object to providing testimony  
 28 on earlier time periods. The Parties reserve their respective positions on this issue.

## 2. YouTube's Final List of Custodians

The Parties were unable to resolve all their disputes over YouTube's custodian list and anticipate submitting a letter-brief to the Court on May 15, 2024.

### 3. YouTube's Final Position on Alternative Features and Locations Outside the United States

The Parties were unable to resolve their dispute over YouTube's objections to Plaintiffs' requests for information regarding users located outside the United States and/or features that are not available in the United States and submitted a letter-brief to the Court on May 8, 2024. *See* ECF 824. The Court has set a hearing for May 23, 2024 at 1 p.m. PT.

### **III. Discovery Issues that Do Not Currently Require Court Action**

## A. Unripe Issues Between Plaintiffs and Meta

## 1. Meta's use of Search Terms and TAR

The Parties have met and conferred on search terms and the relevant timeframe that would apply to custodial searches. In addition to search terms, Defendants have disclosed that they intend to use Relativity Active Learning as a TAR tool to further identify non-responsive documents as documents are tagged for responsiveness by their reviewers. Plaintiffs have expressed concern with Meta applying TAR in addition to search terms, requested additional information about the TAR tool and process being used, and continue to meet and confer on Meta's search methodology.

## Meta's Position:

Plaintiffs’ “concern” is misplaced: under the ESI Order, “[a] Producing Party may use TAR … during the culling and review process of ESI, which may be applied *in addition to* search terms,” ESI Order (ECF 690) at 5 (emphasis added), and “using key-word searches and technology-assisted review *in tandem* does not offend the court’s expectations that the parties conduct a reasonable inquiry as required by the rules,” *Huntsman v. Southwest Airlines Co.*, 2021 WL 3504154, at \*3 (N.D. Cal. Aug. 10, 2021) (emphasis added). Moreover, the ESI Order requires Meta to disclose to Plaintiffs *only* the name of its TAR tool (Relativity Active Learning TAR 2.0) and, upon reasonable request “*after*

1 reviewing [Meta's] production," end-to-end recall. ECF 690 at 5 (emphasis added). Finally, Meta's  
 2 decision to run search terms from the period of January 1, 2015 through February 14, 2023 is  
 3 appropriate—that date range begins over eight years before the MDL PI Master Complaint was filed, on  
 4 the same date specified by the State AGs in their first pre-suit CID to Meta, and ends on the date of  
 5 filing of the MDL Master Complaint.

6 **2. Disputes Over PI/SD Plaintiffs' RFPs 82-83, 120, 123, 143-144, 147, 149-152, 172**

7 The Parties have been meeting and conferring regarding Plaintiffs' RFPs 82-83, 120, 123, 143-  
 8 144, 147, 149-152, and 172. The Parties conducted the final meet-and-confer of lead trial counsel on  
 9 May 10, 2024, and will submit letter-briefing on any outstanding disputed issues on May 15, 2024.

10 **3. Meta's Responses to Several of Plaintiffs' RFPs**

11 **PI/SD Plaintiffs' Position:**

12 On April 22, 2024, Plaintiffs requested a final meet and confer of lead trial counsel concerning  
 13 Meta's improper responses to several of Plaintiffs' RFPs wherein Meta fails to identify whether it is  
 14 withholding documents based on its objections as required by Fed. R. Civ. P. 34. With respect to the  
 15 several RFPs at issue here, Meta's discovery responses indicate that it is "willing to meet and confer"  
 16 without, per the requirements of Rule 34(b)(2)(C), indicating "whether any responsive materials are  
 17 being withheld on the basis of [Meta's] objection[s]." Meta provided information about the RFPs at  
 18 issue on May 7.

19 **Meta's Position:**

20 Meta served its responses to the vast majority of these RFPs months ago, and Plaintiffs failed  
 21 until recently to raise any issues with respect to most of them by way of a deficiency letter or orally in  
 22 the Parties' many meet-and-confers. Meta responded to Plaintiffs' newly-raised concerns in writing on  
 23 May 7 and believes further conferrals can resolve some or all of Plaintiffs' concerns. Meta's objections  
 24 to these requests, moreover, were very specific and appropriate, identifying particular problems with  
 25 regard to, for example, overbreadth and burden, and in that regard Meta invited a discussion by which

1 Plaintiffs might narrow or target the requests, and an agreement might be reached, rather than simply  
 2 objecting outright.  
 3

4 **B. Unripe Issues Between PI/SD Plaintiffs and TikTok**

5 Plaintiffs and TikTok continue to meet and confer on the following:  
 6

- 7 • Production of TikTok's responses to interrogatories and demand for statements under oath served as  
 part of the States Attorney General's pre-complaint investigation, including lists of custodians, as  
 Meta has done.  
 8
- 9 • Topics 21-23 of the 30(b)(6) notice, which deals with source code adjacent topics.  
 10

11 The Parties met and conferred about these issues on May 1. Discussions regarding these topics are  
 12 ongoing.  
 13

14 **C. Unripe Issues Between PI/SD Plaintiffs and YouTube**

15 **1. 30(b) Topics 21-23**

16 Subject to its objections that these Topics, as originally drafted, are overbroad, unduly  
 17 burdensome, irrelevant, vague, and not defined with reasonable particularity, YouTube has agreed to  
 18 offer some testimony responsive to Plaintiffs' request for information about the storage and  
 19 organization of where source code and descriptions of modifications to source code are stored, and how  
 20 they are organized. The Parties reached a tentative agreement regarding the scope of these topics in  
 21 their April 29, 2024 meet-and-confer, and will continue to meet and confer as needed to finalize that  
 22 agreement.  
 23

24 **2. YouTube's Final Position on RFPs 62, 96-98, 100-101**

25 The Plaintiffs are awaiting YouTube's final position on RFPs 62 (Set 4: Health and Safety), 96-  
 26 98, and 100-101 (Set 6: Organization and Finance) to which it objected. The Parties continue to meet  
 27 and confer.  
 28

### 3. YouTube's Final Position on RFPs Regarding Sufficiency Showing as the Basis for Response

The Plaintiffs are awaiting YouTube’s final positions on RFPs in which YouTube responded it will produce documents “sufficient to show,” “sufficient to explain,” “sufficient to identify,” or “sufficient to describe” the requested information. The Plaintiffs object to this approach. The Parties continue to meet and confer and are awaiting YouTube’s final position on RFP Nos. 9-15, 17, 19, 20, 31-35.

#### **D. Unripe Discovery Disputes Regarding Discovery-Related Requests from Defendants to Plaintiffs**

On April 22, 2024, at Plaintiffs' request to assist them in preparing custodian lists, the Court ordered Defendants to produce a list of recipients of Defendants' litigation hold(s) for this matter, as well as the recipients' titles and date added, over Defendants' objection that such production would invade attorney work-product protection and constitute impermissible discovery-on-discovery. *See* DMO 5 at 6 (ECF 789). Defendants have asked the School District Bellwether Plaintiffs and 35 States suing in these proceedings to produce to Defendants within seven days a list of all recipients of litigation hold(s) or preservation notices issued in connection with these matters, their titles, and the dates they were added to those hold(s) or told to preserve relevant documents and information. Plaintiffs are considering Defendants' requests and will meet and confer with Defendants as needed.

Respectfully submitted,

DATED: May 10, 2024

By: /s/ Previn Warren

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1 **ATTESTATION**

2 I, Previn Warren, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the  
3 filing of this document has been obtained from each signatory hereto.

4  
5 Dated: May 10, 2024

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